

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE
PLAYERS' CONCUSSION INJURY
LITIGATION

No. 2:12-md-02323-AB
MDL No. 2323

**REPLY TO NFL AND CLASS COUNSEL'S AVOIDING MERITS OF MOTION TO
DISCIPLINE OR DISMISS SPECIAL MASTERS AND AUDITORS**

In reply to NFL and Class Counsel's Response to Motions to Discipline or Dismiss Special Masters and Auditors, (ECF Nos. 11340 and 11339) undersigned counsel points out that the logic and evidence are intentionally avoided in the respective Responses, and provides the following clarity:

1. NFL and Class Counsel's Responses claim neutrality of the audit process, and attempted deflection to allegations against undersigned, without addressing the admitted facts in the Motion to Discipline or Dismiss Special Masters and Auditors that demonstrate that the audit process is proven by actual communicated material facts as "not" neutral.

2. NFL Counsel and Class Counsel intentionally avoid various unrefuted exemplars of audit failure due to bias and lack of objectivity. They include, but are not limited to, the intentional dissembling of a neuropsychological report that mentions Sharon Delany, into "fraud".¹

¹ This Audit Report and the underlying investigation fail in almost every respect. As a preliminary exemplar of the failures, consider the following simple, knowingly and easily verifiable false statement, concerning an irrelevant and non-related and non-informed target of the investigation, from the Audit Report:

"Sharon Delaney accompanied [REDACTED] to his neurological examination **and pretended to be his wife.**"

Audit Report, p. 3 (emphasis added). NFL Counsel jumped on this knowingly and easily verifiable false statement seeking her disqualification from the program:

3. The simple logic that Howard never communicated with the NFL Claims as part of any claim submission, and there must be communication to carry material or potentially material information² If there is no communication, it is impossible for there to be materiality or even potential materiality.

4. The confirmed facts that the allegations by the criminal Tipster were found to be false.

For example, The Claims Administrator's investigation uncovered that an "NFL Claims Specialist" at a claims preparation company ("S.D.") accompanied a class member to a neuropsychological evaluation and "pretended to be his wife." (Id. at 3). Such clear and obvious fraud cannot be excused in this Settlement Program. The NFL Parties respectfully request that the Special Masters conduct an audit report . . . which if substantiated would undoubtedly call for both S.D. and the Settlement Class Member [REDACTED] to be disqualified from the program."

NFL Parties' Statement of Position and Recommendation on the Claims Administrator's Audit Report on Howard & Associates, P.A., and Related Parties, p. 2.

The distorted lens against Sharon Delaney is verified from our investigation of this unknown target, as this firm had never spoken with this person and had no relationship with Sharon Delaney prior to this false allegation. From our investigation, we received the facts from an accurate lens, which shows that the April 2, 2018 evaluation by Dr. Wisdom specifically states:

"Mr. [REDACTED] was on time for his appointment and was accompanied by an assistant which the examiner mistakenly thought was his wife for the beginning of the exam."

Neuropsychology Wisdom, PLLC, Independent Medical Examination, [REDACTED] dated April 2, 2008 (emphasis added). There is no evidence contrary to this. In fact, the undisputed affidavit of Sharon Delaney, attached, documents both the legitimacy of her actions and the illegitimacy of the sources of this ugly claim.¹ This unrefuted and documented evidence verifies schemes to manipulate and bias the investigative and audit process towards intentional and proven fraudulent outcomes and goals.

Somehow the investigator, who looks to be Brown & Greer Attorney Roma Petkouskas, and NFL Counsel aligned, with the support of the Special Masters, on this innocuous error by Dr. Wisdom's examiner, not Sharon Delaney, and this error was intentionally portrayed as corrupt by a competitor (similar to Don Reinhard's extortion campaign against undersigned with corrupt allies) and the Special Masters adopted their interpretation of these facts as Sharon Delaney impersonating a wife. The Special Masters had the opportunity to correct this glaring error and the many others found in this suspect, illogical and deeply flawed investigation, yet intentionally with glaring bias, chose to do nothing.

² One can't have the "potential" to "communicate". One can only communicate. If there is no communication "in connection with a claim," there can't be "materiality" as there is no communication to carry "potential misrepresentation, omission, or concealment of a material fact made in connection with a Claim by the Settlement Class Member."

4. The fact that privileged attorney work product in house medical evaluations not qualified for nor intended for submission to the NFL Claims and never in fact communicated in any way to the NFL Claims facility by Howard & Associates, cannot be a potential material evidence of misrepresentation, omission, or concealment of a material fact.³

5. NFL Counsel gains by biased audits as biased audits work for the NFL to delay and deny claims, which is what NFL Counsel is paid to do.

6. Class Counsel gains by biased audits as biased audits permit him to be paid \$ millions pretending to work for clients, while biased audits simultaneously permit him to turn a blind eye to unmerited delay and denial of client claims in exchange for engendering favor within the legal community (NFL Counsel, Auditors, Special Masters, private counsel and informants that manipulate audits for their interests—as done here).

WHEREFORE for the forgoing reasons, case law, judicial standards, rules of Federal Civil Procedure, and ethical standards governing investigations, audits and Special Masters, and the indisputable evidence provided herein, the auditors and Special Masters must be disciplined or dismissed by this honorable Court for their bias, both actual and/or the appearance of potential bias.

Respectfully submitted on this 21st Day of April 2021,

/s/Tim Howard
Florida Bar No. 655325
Howard & Associates

³ Class counsel refers to the Motion to Sanction and Remove Auditors and Special Masters open, objective, unassailable evidence, logic and analysis as a “ploy”. There is no ploy to cover up an investment by undersigned, his family and friends of over \$2 million, along with 8 other investors. What is going on is an effort to be responsible and do all undersigned can within the bounds of ethics to protect and secure each of the total of 12 investors. What is going on is to move the audit process towards integrity, even if maligned and attempted to be extorted through toxic narratives created by the Tipster and propelled by his allies and enablers to advance their own careers and interests.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing was served via e-service through the U.S.D.C., portal on the court and counsel of record on this 21st Day of April, 2021.

/s/ Tim Howard
Attorney